

Appl. No. 09/649,121  
Amendment dated May 11, 2004  
Reply to Office action of Mar. 29, 2004  
Docket No. 6169-170

### REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of March 29, 2004 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due.

In paragraphs 2 and 3 of the Office Action, claims 1-2, 10, 16-17, 24-25, 33, and 39-40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 6,363,421 to Barker *et al.* (Barker) in view of U.S. Patent Number 6,675,375 to Czajkowski (Czajkowski). In paragraph 4 of the Office Action, claims 5-9, 11, 13-15, 20-22, 28-32, 24, 26-28, and 43-45 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Barker in view of Czajkowski in further view of Sun Microsystems: JAVA Management Extensions White Paper, Dynamic Management for the Service Age (SUN). In paragraph 5, claims 12, 23, 35, and 46 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over under Barker in view of Czajkowski in further view of SUN, in further view of U.S. Patent Number 6,633,923 to Kukura *et al.* (Kukura).

In response to the 35 U.S.C. § 103(a) rejection, Applicants have enclosed affidavits under 37 C.F.R. § 1.131 supporting the removal of Czajkowski as a reference. As noted in paragraph 1 of the Office Action, Applicants have previously filed affidavits under 37 C.F.R. § 1.131, which the Examiner has found sufficient to overcome the Sun Microsystem Inc., Java Management Extension Instrumentation and Agent Specification reference having an effective date of May, 3, 2000. The accepted affidavits were accompanied by a copy of the Applicants' confidential invention disclosure entitled "A Method of Splitting a Java Management Extensions (JMX) Agent between Java Virtual Machines (JVM)s or Hosts".

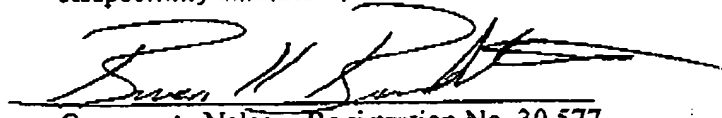
Applicants herein resubmit the previously accepted affidavits. The confidential invention disclosure and affidavits demonstrate proof of conception for the claimed subject matter of the Applicants' invention at least as early as April 24, 2000, which predates the effective date of Czajkowski that is April 28, 2000. Applicants further exercised due diligence from prior to the effective date of Czajkowski until August 26, 2000, the filing date of the instant application. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection with respect to claims 1-47 is respectfully requested.

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Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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